

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EUKOR CAR CARRIERS, INC.,

Plaintiff,

v.

ATI USA INC., et al.,

Defendants.

:
: Civil Case No. 13-167
: (FSH) (JBC)

: **ORDER**

: August 18, 2014
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HOCHBERG, District Judge:

This matter comes before the Court upon the Report and Recommendation of the Honorable James B. Clark, III, United States Magistrate Judge, filed on August 1, 2014 [Docket No. 62], to strike the Answers and Counterclaims of Defendants ATI USA and MJ Group Limited-Morgan Jones, LLC, (“MJ Group”), and enter default against those Defendants; and for good cause shown;

it appearing that, after counsel for Defendants ATI USA and MJ Group moved to withdraw representation, Magistrate Judge Clark held a conference on June 4, 2014, and instructed Defendants ATI USA and MJ Group to retain new counsel;

it appearing that ATI USA and MJ Group indicated that they would not retain new counsel;

it appearing that, after ATI USA and MJ Group failed to retain new counsel, Magistrate Judge Clark issued an Order to Show Cause on July 10, 2014, directing

Defendants ATI and MJ Group to show cause why counsel should not be relieved and why Defendants' Answers and Counterclaims should not be stricken;

it appearing that Judge Clark held an in-person hearing on the Order to Show Cause on July 31, 2014, attended by a non-attorney representative of Defendants ATI and MJ Group, wherein Judge Clark granted counsel's request to withdraw and informed Defendants' representative that the consequence of failing to retain an attorney would include striking Defendants' Answers and Counterclaims and entry of default;

it appearing that Defendants ATI and MJ Group did not object to withdrawal of counsel, submit a position paper to Judge Clark regarding the Order to Show Cause, or object at the Order to Show Cause hearing;

it appearing that, after the hearing, Judge Clark submitted a Report and Recommendation on August 1, 2014, finding that Defendants ATI and MJ Group's Answers and Counterclaims should be stricken and that default be entered against Defendants ATI and MJ Group;

it appearing that the Report and Recommendation adequately develops the factual record, documenting Defendants' failures to comply with the Court's Order that Defendants—two corporate entities—retain new counsel;

it appearing that the Report and Recommendation properly applied the six-factor test established by the Third Circuit in *Poulis v. State Farm Fire & Casualty Co.*, 747 F.2d 863, 868 (3d Cir. 1984), and appropriately concluded that Defendants' continuing failure to comply with the Court's Order warranted striking Defendants' Answers and Counterclaims and directing the Clerk to enter default against Defendants;

the Court having reviewed the Report and Recommendation de novo pursuant to 28

U.S.C. § 636 and L.Civ.R. 72.1; and having received no objections pursuant to L.Civ.R.

72.1(c)(2); and for good cause shown;

IT IS this 18th day of August, 2014, hereby

ORDERED that the Report and Recommendation of Magistrate Judge Clark filed on August 1, 2014 [Docket No. 62], is **ADOPTED** in its entirety.

IT IS SO ORDERED

/s/ Faith S. Hochberg

Hon. Faith S. Hochberg, U.S.D.J.